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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,579	07/11/2003	Daniel P. Turi	6201.001	3667

34282 7590 11/15/2004

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/617,579

Applicant(s)

TURI ET AL.

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the **Final Office Action** for application number 10/617,579 Detachable Weights for Stabilizing Intravenous Stands, filed on 7/11/03. Claims 1-18 are pending. This **Final Office Action** is in response to applicant's reply dated 10/29/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

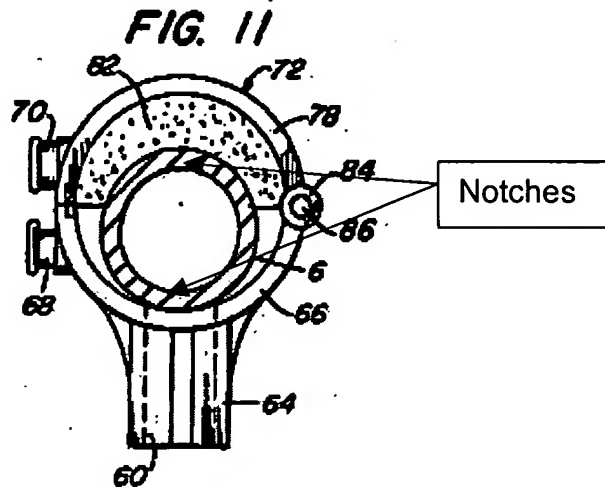
### ***Claim Rejections - 35 USC § 102***

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5009442 to Schneider.

The patent to Schneider discloses a device (72) with a pair of hinged (84, 86) connected planar bodies (66, 78) for being placed in rested engagement atop a wheeled (8) carriage of an IV stand (4), with a pole (6) extending vertically upwardly from the carriage, the bodies (66, 78) being moveable towards each other into a closed position about the pole and a latch means (68, 70, 74), which is mounted on the bodies to releasably clamp the pair of bodies in a closed position, the latch means being interconnected by the hinge. Schneider also teaches that the bodies are in contiguous linear engagement with each other, including a semi-circular notches (See The Drawing Below) formed intermediate to each body's opposite ends, making a clamshell structure and being in circumscribing engagement with the pole of the IV stand, while being swung toward each other in a closed position and a swung away from each other to an

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open position. Schneider also teaches a liner of resiliently deformable material (82, See Col. 5 lines 59-65 for material selection) on the mating and in the notches.



### ***Response to Arguments***

The applicant has argued that Schneider does not meet the limitations of claims 1, 7 and 13 because the device of Schneider is not shown to be in “rested engagement” atop the wheeled carriage stand. This is unpersuasive for two reasons. First, the limitation is argued narrower than actually claimed. The limitation is cited in the arguments as if it is a positive recitation, that the device must be “in rested engagement atop the wheeled carriage” (See Remarks 10/29/04, page 7, 3<sup>rd</sup> paragraph). The claim language states that the device is a desired function only statement, reciting that the device is “for placement in rested engagement atop the wheeled carriage”. The

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limitation of a desired function of the device, is broader in scope than a positive limitation.

Secondly, even if the limitation was interpreted as a positive limitation, Schneider still meets this limitation in that the device (72) is resting and engaged with the wheeled carriage via pole (6).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at

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703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/ communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
11/5/04



ANITA KING  
PRIMARY EXAMINER